IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 6719 of 2000

(Converted from Spl. Cri. Application No.721 of 2000)

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUSTAK ISMAIL JINA

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMIZI for Petitioner

MR MANKAD, A.P.P. for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 13/06/2001

ORAL JUDGEMENT

An F.I.R.No.38/93 was registered with LCB Valsad, Atul Police Station on 23/8/1993 at 5:00 p.m. against

the accused for the offence under Section 25(1) of the Arms Act as one revolver worth Rs.1,500/- with two live cartridges of Rs.20/- each was found from the possession of the said accused. The statement of the accused was recorded on the next day of commission of offence i.e. on 24/8/1993, wherein he had stated that he purchased the revolver from one Salim Ismail for Rs.1,200/-. The said Salim Ismail has already been arrested by the police.

2. The present accused is Mustak Ismail Jina. He has filed this application under Section 482 of Cr.P.C. with a prayer that he may not be arrested in connection with the aforesaid F.I.R. by the police.

3. Learned Counsel Shri Tirmizi for the appellant-accused submitted that the police tried to involve the applicant falsely in connection with the aforesaid F.I.R. The name of the accused is Mustak Ismail Jina but they want to arrest him as Mustak alias Salim Jina and that too on the statement of the main accused. Learned A.P.P. Shri Mankad submitted that the applicant-accused is none else but Mustak alias Salim Ismail Jina and he was evading his arrest so far. However, from the record produced before the Court it appears that the present accused was arrested in some another case and he was in jail. Charge-sheet was already filed against the accused showing him absconding.

4. Therefore, even assuming for the sake of argument that the petitioner Mustak Ismail Jina is the same Salim Ismail Jina, then also there is no evidence in the eye of law for which he should be convicted.

5. Under the circumstances, this petition is allowed and the charge-sheet filed against the accused as absconding for the offence under Section 25(1) of the Arms Act in connection with F.I.R. No.38 of 1993 is hearby quashed. Application is allowed accordingly.

(B.J.Shethna, J)
'Bhavesh'